

1. Buying into Strata

OCN has been actively contributing to a refresh of the information offered to [first-time unit buyers](#), including when [buying off plan](#). Updated fact sheets are now available ([click on above links](#)) and a more extensive guide will be coming soon.



There are many differences between living in a strata complex and living in a detached home. Examples of positives can include a sense of community, easier “lock-up-and-leave” freedom, relief from garden maintenance and the sharing of various communal costs. Options also vary widely, from small town-house communities to large hi-rise complexes.

However, for those who have never lived in a strata community previously, there can also be surprises that may not be so welcome. Prospective buyers are urged to review the information on offer to support informed decision-making.

2. EV Charging in Strata

Addressing the rising demand for Electric Vehicles (EVs), the Victorian Government has released an [EV-Ready Guide for Owners Corporations](#). It adds to the expanding base of resources to help OCs plan their way forward with EV charging – such as the [ACT’s Guide on Making your strata building EV-Ready](#). The NSW Government is also looking at legislative changes to facilitate in-house EV charging, as [this article](#) outlines.

Whilst there are some jurisdictional differences between the States and Territories, such guides are a good starting point for OCs wanting to understand ways in which in-house EV charging can be supported.

Interest in EVs has no doubt been spurred on by the conflict in the Middle East, fuelling concerns over the long-term availability and cost of petrol and diesel. [Sales data](#) for the ACT maintained by the local chapter of the AEVA (*the Australian Electric Vehicle Association*) show the accelerating pace of EV uptake, with more than 18,000 EVs registered as of 10 August 2026.

Dr. Ben Elliston (*Chair of the ACT Chapter of AEVA and energy systems modeller*) argues in [this article](#) that the current trend in EV uptake is not on its own sufficient to meet the ACT’s Carbon Dioxide reduction targets, and more aggressive action is needed.

Strata residents who purchase an EV want and deserve similar convenient charging options that the owners of detached homes enjoy. A search on the consequences of *not* providing EV charging indicates that OCs which ignore the trends eventually risk seeing a decline in the sales and rental appeal of their units.

More public charge points are also part of the answer. [Energy Networks Australia](#) (ENA) has noted that the ratio of EVs to public charge points in Australia is 41 – compared to a global average of 11 – well below some less well-developed countries.



ENA is seeking regulatory changes that would allow network operators (*like EvoEnergy*) to provide kerbside charging infrastructure as part of their regulated asset base.

If you’d like to know which ACT buildings are already “EV-friendly”, check out [AEVA’s register](#) – and if your building supports EV charging but is not yet listed, get in touch with AEVA!

3. Density Done Well – a TownHall Event Hosted by Senator David Pocock

The Manning Clark lecture theatre in the Kambri Centre at ANU was packed out with some 600 in-person attendees for an [event](#) hosted by ACT [Senator David Pocock](#) on September 3rd, with an additional 100 or so attending via live-cast. [Jessie Price](#) – an independent candidate for the Federal seat of Bean in the 2025 election – moderated the discussion and questions from the audience.



The panel comprising Senator David Pocock, MLAs [Thomas Emerson](#) and [Fiona Carrick](#), building quality specialist Leanne Foresti and density and sustainability consultant Jenny Edwards. Gary Petherbridge and Robin Eckermann represented [OCN \(ACT\)](#). For those who missed the event but are interested, a [recording](#) is available.

The focus of the event was improving outcomes as medium- and high-density housing continues to grow to be an ever-more-significant sector of Canberra's housing supply. Key issues included affordability, building quality, body corporate management, energy sustainability and social amenity. Much of the discussion focused on concerns that have contributed to a decline in market confidence in the sector.

As a modern, "planned" city, Canberra has the potential to lead the nation by example towards more sustainable living, and indeed it can claim many positive achievements on this front. However, some of the discussion highlighted assorted failures at the planning and development phases – contributing to costly remediation affecting the strata sector in the longer term. As one attendee mischievously commented: "Even the proverbial Blind Freddie could have foreseen some of the expensive problems the sector is now grappling with, so we can only hope that Blind Freddie gets a job in planning soon!"



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4. Plants on Class A common property

A recent case that came to OCN attention involved an owner demanding that a wild-grown ivy be maintained by the OC, and that plants that may or may not have been approved for planting on the common property remain.

In a standard Class A complex, units do not own any garden outside their unit title. Rather, the OC owns the planting area unless otherwise demonstrated. As such, the OC has the right to dictate that plants, especially pest plants, be removed.

Having said this, it is incumbent on ECs to conduct its affairs with courtesy.

5. Who's the Boss?

Many of the concerns that are escalated to OCN (ACT) attention involve actions or decisions taken by strata managers or ECs. It is always worth remembering the "pecking order".

Owners collectively are at the top of the management pyramid and hold ultimate control through decisions made at general meetings.

An EC elected by the Owners is duty-bound to serve the best interest of *all* Owners, acting on their behalf through regular meetings.

An SM appointed by the EC to support day-to-day needs must operate as the servant of the OC – not its master!

6. Government Response to the Strata Management Inquiry – in a Nutshell

On 28 August, the ACT Government published its response to the ACT Legislative Assembly [Inquiry into Strata Management](#). The [Inquiry Committee's report](#) contained 33 recommendations. The following table summarises the recommendations and the [Government's Response](#). Readers are encouraged to digest the full reports to better understand the recommendations and the Government's response.

☒ Agreed
 ☐ Agreed in principle
 ☐ Noted
 ☒ Not agreed

Strata Managers	1	Mandatory licensing for SMs and their staff
Insurance	2	Mandatory disclosure to OCs of conflicts of interest & commissions and a review of NSW approach
	3	Increased transparency of insurance commissions
	4	Introduction of training modules to support SM accreditation
	5	Legislative requirement for OCs to pay under-the-excess insurance claims
SM Contracts	6	Development of standard template for SM engagement
	7	Legislative limit on developer's appointment of initial SM to a term of 1 year
	8	Consideration of right of "no cause" termination of SM contracts
	9	Requirement for clear identification of any SM serving the complex
Executive Committees	10	Introduction of mandatory training for ECs
	11	Authority for OCs to grant EC members an honorarium or discount
	12	Term limits on EC member roles
Strata Decision Making	13	Review of quorums needed for General Meetings & Special Resolutions
	14	Rights of rental tenants to attend AGMs as observers
	15	Legislative changes to permit rental tenants to serve on ECs
Noise	16	Review of adequacy of existing noise laws
Short-term Rentals	17	Investigation into potential regulation of short-term rentals in strata
	18	Legislative obligation on owners to notify intent to make unit available for short-term rental & to provide details for urgent contact with tenants
Mixed-Use	19	Government to explore options for separate insurance policies for different users of the same building
Sustainability	20	Legislative amendments to clarify OCs rights to charge for the use of sustainable technology (<i>like EV chargers in common property</i>) and increased public education efforts on building safety matters
	21	Increased guidance covering OC use of sinking funds for environmental initiatives
Commissioner	22	Establishment of Strata Commission
Buying into Strata	23	Improved information and guidance on strata living (NSW as guide)
	24	Timely updates of strata information on significant legislative change
	25	Legislative requirement to require key strata information to be issued to prospective buyers along with contract for sale
	26	Improved legislation and guidance material to give legal clarity in respect of management of Class B units
	27	Legislative requirement to disclose levies in real-estate advertising
UT(M)A	28	UT(M)A update requiring standardised levy notices – including hardship and payment plan options (similar to Victoria)
	29	UT(M)A update to include hardship provisions (similar to NSW)
	30	UT(M)A update to include internal dispute mechanism (similar to NSW)
Parking	31	Review of OC's management and enforcement powers associated with illegal parking and misuse of the common property
Records	32	Legislative obligation for SMs to hand OCs all records on cessation of appointment
	33	ACT Government to provide a central document hub for OC records (<i>Noted/Not Agreed</i>)

7. OCN (ACT) Comments on Government's Response

The OCN (ACT) is generally positive about the [Assembly Inquiry Report](#) and the subsequent [Government Response](#).

Readers are encouraged to look at the detail in the documents to understand the Inquiry's full impact and the opportunity it provides.

The reports provide a valuable starting point, but implementation and delivery (*including solutions where gaps still exist*) will be the key to success.

A [detailed supplementary submission](#) provided by OCN (ACT) and several other key stakeholders including Real Estate Institute, Strata Community Association, Property Council ACT and Australian College of Strata Lawyers offers insights that hopefully the Government will consider as implementation progresses.

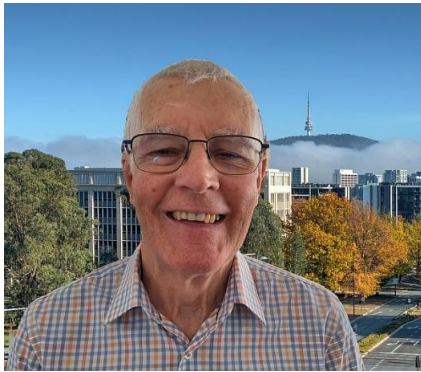
The fact that such a broad group of stakeholders in the strata sector can agree on many common key themes bears testimony to the appetite for reform in the sector.

Events and forums like "Density Done Well" hosted by Senator Pocock and participating panelists (*see article #3*) can also guide efforts towards successful outcomes.

Without addressing all recommendations where OCN (ACT) agrees and where joint activity will contribute to success, it is relevant to highlight some recommendations where stronger action or enhancements would be welcome:

1. Several recommendations relate to aspects of **insurance coverage** in strata particularly numbers 2, 3, 4 and 5. Recommendations 2 and 4 are agreed-in-principle and detailed work should create a reasonable result.

For recommendation 3 OCN considers that neither the report nor the government response are satisfactory and **insurance commissions** should be abolished as is proposed in NSW and supported by almost every Strata Manager in the ACT.



Gary Petherbridge – OCN President

Noting of recommendation 5 needs to be carefully reviewed by the Government in light of ACAT precedents as recent as early September, where ACAT ruled **claims under-the-excess** provisions of an insurance policy should be paid by the OC (*see also article #14*).

2. Recommendations 1 and 10 relate to **better educated and skilled SMs** and their individual **licensing** criteria/conditions, and to mandatory training for EC members.

OCN is strongly in favour of recommendation 1. When considering recent conversations on CIT and UC (*including a recent media opinion piece by MLA Emerson*) there are opportunities to provide initial training as well as the higher levels needed in this complex professional role.

In relation to recommendation 10, **mandatory training for EC members** is not supported by OCN (ACT). However, OCN certainly wishes to encourage well-informed EC membership since good management by a capable EC (*which carries the legal responsibility*), supported by a competent SM, produces higher value and better liveability for the complex.

The need for this capability was one of the first questions from the audience at the Pocock event. By way of follow-up, OCN will be asking Government for more EC education to be made available in various forms such as fact sheets and strata living guides (*as are already in progress - see recommendations 23 to 26*) and also in the form of short course modules delivered on-line.

3. OCN (ACT) supports recommendations 20 and 21 on **environmental sustainability** and the contribution by the strata property residential sector. However recommendation 20 needs considerable input to make it workable.

The OCN working group on environmental sustainability continues its commitment to assist, recognising that these initiatives cover much more than EV Charging. Challenges continue in the areas of:

- maximising solar opportunities;
- decommissioning gas supply from strata complexes (*with many issues relating to electrifying communal hot water systems*);
- maximising storage opportunities (*whether in the form of hot water, or through access to Commonwealth Government grant programs supporting batteries, etc*);
- ensuring the adequacy of building power supply as electrification progresses.

4. Recommendation 22 – a properly resourced **Strata Commissioner** with statutory powers reporting to the Minister and/or the Legislative Assembly – is considered most important. This recommendation was strongly supported for many reasons during the Pocock “Doing Density Well” event. Such a role is also relevant to recommendation 30 on dispute handling and the potential for reducing the need for ACAT intervention.

The Commission will contribute to defining and implementing many other Recommendations where legislative reforms are suggested.

Whilst conscious of the growing pressures on the ACT budget, the recent [joint submission](#) highlighted ways that the creation of a Strata Commission could not only be funded but also have a positive impact on the budget.

This can be achieved by reallocation of certain premiums collected from the strata sector, the consolidation of ACT Government resources already devoted to strata issues and (*most importantly*) savings accrued through better outcomes.

5. Recommendations 32 and 33 concern **record keeping** and ownership and control of information. This information should include everything from original and modified building plans and materials used, financial reports and bank account control, service contracts in-place, meeting minutes and details of Owners (*with appropriate privacy protection*) and EC members.

Recommendation 33 falls short in this regard. The best example to date of deficiencies in record keeping was when the Government Agency responsible for Building Plans could not provide information on which buildings had combustible cladding that needed removal. This was left to OCs/ECs to discover and then rectify. NSW is implementing a solution for records control and management that ACT should watch.

OCN (ACT) and its stakeholder partners look forward to addressing the issues highlighted in this Inquiry from February 2025.

By the end of the current Legislative Assembly term in October 2028 it is hoped (*perhaps optimistically*) that confidence in strata living has been significantly boosted. It's needed for affordable homes, the strata sector's contribution to solving the housing crisis and to maintaining the ACT's leadership in environmental sustainability.

*Point of view by Gary Petherbridge
President OCN (ACT)*

8. Movement at the management station

Bright and Duggan has announced “[Civium Joins the Bright and Duggan Group](#)”.

Several Civium clients have advised OCN (ACT) that they have not received any notification of the change in Civium's ownership, or of any change in the individual SM assigned to their complex. If so, Civium's clients will not be able to exercise their rights to review a proposed management transfer under S.53 of the UT(M)A. Civium's clients might like to ask questions.

Another manager seems to have moved an unknown proportion of their “staff” from employment to either sub-contractor arrangements or a franchisee status. Clients have not been informed that their manager is no longer an employee of the company with whom they have a strata management contract.

One OC that discovered the change has lodged an ACAT action. The OCN (ACT) Newsletter will keep you posted.

9. Disability and door openers

Disabled owners need different solutions to give them the same access to their unit and to the common property as other owners. Different solutions do not make disabled owners special, just equal.



10. Special Privileges over privately owned property

In a case brought to OCN (ACT) attention, an OC was proposing to create a Rule to give owners a Special Privilege over their roofs to host OC fixtures for rooftop safety of contractors. However a Special Privilege is a right granted to an owner for effective exclusive use of part of the common property. The owners of the Class B units in question already own the roofs.

A Special Privilege does not establish a right for the OC to maintain the fixtures, keep them certified as fit for purpose and make them available to trades for roof maintenance. The owners still own the roofs and can deny access or place conditions on access. Back to the drawing board.

11. AEDs in Strata Complexes

Does your complex have ready access to one or more AEDs (*Automated External Defibrillators*)?

Cardiovascular disease accounts for about 23% of all deaths in Australia – some 30,000 sudden cardiac arrests each year. That's 82 people every single day, and 80% of those occur in residential settings.

With many older Australians downsizing to apartments, the potential for incidents in strata complexes is real.

Survival rates decline by 10% for each minute that passes without intervention.

The [case study](#) that follows was provided by [Pulse Defibs](#), one of the companies that supplies and maintains AEDs in strata complexes, along with delivering training to volunteers.

Russell had just returned from holiday and was due to attend his townhouse strata's annual general meeting at the local golf club. He was running late when fellow strata member Mary called him at 4:15 pm to remind him about the meeting.

Russell hurried to the club, but shortly after walking into the clubhouse collapsed and went into cardiac arrest. Mary initially found him breathing and placed him in the recovery position, but he quickly stopped breathing and had no pulse. She immediately began CPR while the club manager retrieved the onsite AED.



Mary and another club member, Grant, attached the AED pads and followed its voice prompts while continuing CPR. Grant performed compressions for around 20 minutes, while the AED delivered six shocks before paramedics arrived.

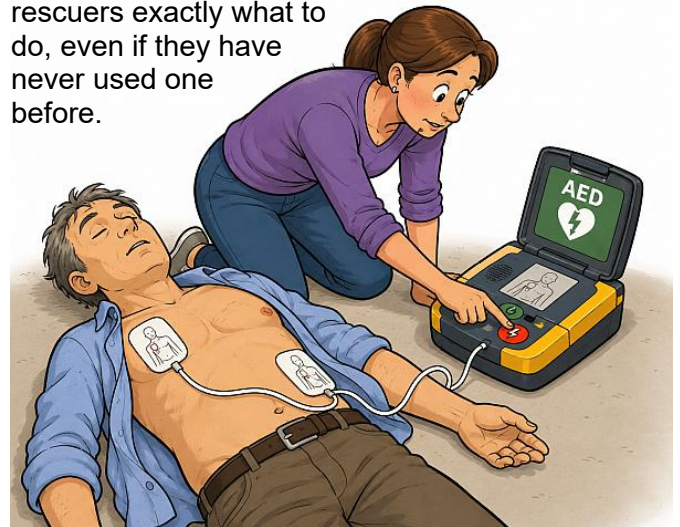
By the time paramedics were treating Russell, the AED advised that no further shock was required and, to everyone's relief, Russell began breathing on his own.

After extensive hospital testing, no obvious cause for the cardiac arrest was found. Russell eventually recovered and returned to his normal life, with doctors recommending an implantable defibrillator to protect him against future episodes.

Russell believes the phone call that brought him to the meeting saved his life. Had he stayed home, his wife would have had no access to an AED and could only have waited for paramedics after calling the "000" emergency number.

Russell subsequently decided to donate an AED to his townhouse complex so the community would have greater protection in similar situations.

Mary emphasised that people shouldn't be afraid of AEDs. The device tells rescuers exactly what to do, even if they have never used one before.



This is a powerful real-world example of why AEDs in strata communities make sense. Russell wasn't having his cardiac arrest at a workplace, sporting event or hospital. He was simply attending a strata meeting with his neighbours.

Because the venue had an AED available and people were willing to act, he survived.

Case study provided by [Pulse Defibs](#)

12. EC Member Voting on Issues

When an EC member votes on an issue they may have to defend their reasons in ACAT. As long as their rationale is reasonable and not based on malice or self-interest they are *not* required to vote in favour of a proposal.

However, if their argument is that by giving another owner fair treatment they are deprived of *more-than-fair* treatment that they have enjoyed previously, they need to think again.

This was the argument of one EC member that came to OCN (ACT)'s attention.

13. GST Discrimination for Unit Owners

Many OCs will choose to explore borrowing to fund major capital work, thus avoiding having to call on owner funding in the form of special levies.

In 2000 the Australian Parliament introduced GST, a tax on goods and services. The States abolished sales tax, but not land tax, stamp duty or payroll tax as originally contemplated. The Commonwealth distributes revenue raised from GST to the States and Territories

In 2002 the ATO included levies paid by strata unit owners to their OCs as being liable for GST and allowed those OCs who became liable to also claim back GST paid on supplies of goods and services. At that time strata title was still evolving – and in fact this is still the case today.

The major change in modern Australia is that, under pressure from all levels of Government, strata complexes are often now large medium and high-rise buildings accommodating units in multiples of 100. As these buildings age, OCs are having to borrow money for major repairs and maintenance to be able to preserve an acceptable standard of housing for all unit owners and residents, or to meet new environmental sustainability goals.

This is quite separate from any mortgage that an individual unit owner may have when purchasing a unit. It is a collateral mortgage that becomes the responsibility of all unit owners to service and repay. So the OC raises a loan which under GST law is input taxed. That simply means it's *not* subject to an additional 10% GST payable to the Commonwealth. This is exactly the same as for any loan raised by an individual (*including unit owners*) for a private mortgage.

The difference between an individual borrowing direct and repaying a mortgage and an OC is that the OC can usually only meet interest costs and repay its loan by raising a special levy on all units.

AND HERE'S THE RUB. Because the loan repayment is raised by means of a levy, under existing GST law each levy repayment attracts 10% GST on top of the principal and interest payable. An individual with a loan at say 4% interest will repay that loan with interest at 4%. In contrast, a unit owner will repay their share of a similar loan at 4% plus 10% GST. Depending on the term of the loan, this could translate into an effective interest rate of as much as 14.4% for a short-term loan.

The ATO does not at present recognise that an exemption should be made for special levies on unit owners raised specifically for the repayment of a loan for their OC.

Simply put, in Australia 50% of home-owners not in an OC do not pay GST for a loan whereas the 50% of Australians who reside in a strata complex and fund major building upgrades do pay GST on borrowings as a result of the ATO applying GST to all strata levies.



OCN accepts that this is probably an unintended consequence that was not foreseen in the original drafting of legislation.

However, if there is to be equality of home ownership in Australia the Commonwealth needs to alter its tax ruling for strata complexes and allow levies made solely for loan repayment purposes to be deemed input taxed (that is, GST-exempt) – just as is the case for anyone else borrowing money. Of course, an alternative would be to make everyone pay GST on a loan no matter how raised - but that's not going to happen. The Commonwealth Parliament deliberately excluded financial transactions from GST liability.

So how about a fair go for strata unit owners!

*Article contributed by Michael Britten
retired solicitor.*

14. Does this end an insurance debate?

The Assembly Inquiry into Strata Management's fifth recommendation is:

"... that the ACT Government introduce amendments to the Unit Titles (Management) Act 2011 to require owners corporations to pay all potentially valid insurance claims with costs lower than the excess stipulated by the insurance policy."

Unfortunately the Government Response to the Inquiry **Noted** rather than **Agreed** with that recommendation. The Government argues that paying under-the-excess claims places burdens on the EC to budget funds for unquantifiable events, determine potentially valid claims, run the risk of over-estimating the funds needed & place a burden on owners and recoup funds under S31 of the UT(M)A if the owner or occupier was at fault.

However, ACAT is agreeing with the Inquiry's position. There is a recent decision [Feng v UP840](#) (pages 9-13) that supports OCs paying under-the-excess insurance claims.

In another matter heard in late August, ACAT ordered the OC to pay the under-the-excess claim. OCN is aware of several more under-the-excess insurance claims that are on track towards an ACAT hearing.

OCN's position is that paying out under-the-excess insurance claims is an extension of the already existing obligation to deal with insurance claims that involve costs over the applicable excess.

Each EC must budget annually for insurance excess amounts. This is not an exact science but the product of experience. If the EC overestimates it may attract complaints and have to adjust the next year's budget. If it underestimates the budget has to be juggled or a general meeting called.

If an insurance claim is made and accepted but it comes to light that the owner or occupier was not being entirely truthful about how the damage occurred, the EC has to recoup the excess from the owner, and the owner may have to take action to recoup from any tenant.

No new duties are created by paying under-the-excess claims.

Many OCs already regard the excess amount as the OC's responsibility under the insurance policy and they pay out damage from insurable events that are under-the-excess after appropriate consideration of the circumstances.

OCs should treat whatever the insurance policy excess is as the threshold below which they must make budgetary provision for "self insurance", even if the excess is as high as \$200,000. Otherwise owners are effectively paying for insurance (through their levies) but are effectively left uninsured.



Insurance cover may not be front of mind when strata units are bought – but it can become a significant issue if (for example) the balcony upstairs leaks into your unit that is already straining the purchaser's budget.

An owner who is an innocent bystander to a body corporate problem may be forced to embark on efforts lasting months, even years, to get the source of the damage discovered and remedied before costs are met by the OC.

Hopefully as the response to the Inquiry is put into effect ACAT's view will be legislated.

Insurance commissions

The second recommendation from the Strata Management Inquiry was that the ACT Government:

- *mandate that strata managers disclose to owners corporations any conflicts of interest and commissions received by strata managers; and*
- *consider whether the model outlined in the NSW Productivity and Equality Commission's Strata commissions review would be appropriate for the ACT.*

The Government Response cautiously agreed this Recommendation in principle.

However, the SCA (Strata Community Association, the strata managers' peak organisation), is ahead of the ACT Government on this issue. SCA, is on record as having agreed to phase out insurance commissions.

Several managers have already adopted 'no commissions' contracts with new customers and will migrate existing customers that ask for the change to no-commission arrangements.

Maybe the ACT Government needs to take a bolder stance on this issue!

What does the OC insure?

In her decision on [Feng v UP840](#) (pages 9-13), ACAT President Daniel several times made the point that S.100 of the UT(M)A requires an OC to take out insurance for all buildings on the land, "with no distinction" as to common property, Class A or Class B units.

This usefully dispels the myths that the OC only insures the common property and that Class B townhouses are not insured.

Damage, maintenance and insurance cover



There seems to be significant confusion on the part of SMs and ECs between an owner's right to seek insurance cover for damage from insurable events, like storms, and damage that results from failure to maintain items that are the owner's maintenance responsibility – for example, roofs on Class B units.

Two SMs have gone to great lengths to argue something along the lines of '*all damage is the result of lack of maintenance*' and '*the OC cannot fund through insurance the repair of items that owners must repair*'.

If this view were to prevail, owners would be denied any right to claim under the insurance policy that they ultimately fund through their levies.

Inordinate efforts seem to be required to show that the owner has undertaken all reasonable efforts to maintain their property – and yet they can be met with arguments that no amount of maintenance was enough because there is damage.

The logical endpoint of such an argument is that insurance is unnecessary and money should be spent on maintenance instead.

One SM is arguing at great length that damage to a unit arising from another unit, for example water damage, is not a matter for the OC insurance policy. Rather the SM is arguing that it is a private matter between the units concerned for the owners to sort out either by agreement or by ACAT civil debt action. OCN (ACT) is aware of two such applications to ACAT that are awaiting hearing.

If you have an issue, please [contact OCN \(ACT\)](#).

15. Tradies offering advice beyond their expertise

OCN (ACT) was alerted to member concerns in relation to several dubious trade pronouncements:

- A plumber wrote on his report that a sump not draining to the stormwater outlet was on unit title.
- An electrician called to a fused air-conditioning unit suggested that it would not be covered under the OC insurance policy because it served only one unit.

SMs and ECs shouldn't automatically assume that such pronouncements are correct! The title plans show the sump is on common property and above the unit collecting runoff from common property into the unit. Hence it is the OC's responsibility to maintain the sump and the pipe from the sump to the stormwater.

The air-conditioning unit and its fused motor is covered under the OC insurance as required by S.100 of the UT(M)A. The electrician confused insurance with maintenance obligations. But in both recent cases the tradie's word was taken as "gospel" and it took time and effort to sort the issues out.

16. Can the EC enter a unit to repair the leaking balcony?

OCN has had a number of recent requests for assistance as to whether the EC can require access to an apartment to undertake repair works on the balcony. It seems that some of the requests have left owners and especially tenants concerned that they will be held responsible for the costs of repairs.

In short the answer is “**Yes**, the EC can require access to a unit for the OC to undertake its obligations to repair a balcony” because S.24 of the UT(M)A provides the OC must maintain the balconies on a Class A building.

As regards costs, the answer is “**No**, the owners and particularly the tenants are not at financial risk, **unless** they delay access and thereby cause costs arising from the delay and from further damage from the balcony continuing to leak.”

In many cases the upstairs owner or tenant is not aware that the balcony is causing water infiltration into the unit(s) below. The first they may learn of the problem is a demand for access. They do not know if the demand is reasonable and the risks to them of granting or refusing access.



The EC should take a strong interest in the information that goes along with the demand to ensure the owner or tenant understands the situation.

One OC took some 12 months and an [ACAT decision](#) to get access to a balcony to enable the OC and its agents, the builder and subcontractors and inspectors/certifiers to remove the items from the balcony and perform the repairs to stop water leaking into the unit below.

The owner and/or tenant were clearly recalcitrant in allowing access, and under the ACAT order they were “*restrained from preventing, interfering with or delaying, or allowing any occupier of [the unit] or other person to prevent, interfere with or delay, the performance of the works required by [...] or access to the balcony by any authorised person*”

The OC was then entitled to seek compensation for the costs of the owner’s delay. This may yet necessitate two further ACAT appeals – the first as a Unit Title matter (*about the OC’s maintenance responsibility*) and the second as a Civil Debt matter (*about the costs of the delay*). Both appeals would ideally be heard together.

It’s possible that better explanatory communication at the outset would have resulted in access being granted more efficiently in the foregoing case.

The recent requests to OCN suggest that the requests received by the unit with the faulty balcony do not explain the situation adequately. Owners and tenants have not been left with an understanding that effectively they have no grounds to refuse or delay. At most, they can negotiate mutually acceptable arrangements and the quicker they do that, the more likely they are to achieve outcomes acceptable to all parties.

Tenants in particular may feel vulnerable, maybe even violated. However that is a matter between them, their managing agent and the owner. Landlord insurance usually includes cover for the tenant having to be rehoused for a period of time.

17. Use AI at your peril

An EC member seeking more nominees for the EC at the upcoming AGM put up in lifts and foyers a poster that was *in part* correct about who can be elected to the EC and *in part* just nonsense. An eagle-eyed owner approached OCN saying “I think this is AI spam.”

They were dead right! Experimental AI searches on the topic generated all sorts of nonsense. Every time the source was investigated, it did not say what the AI suggested it said.

So please get a steer from the AI – but it’s always worth checking sources and verifying the AI advice before you make an arresting poster of it or act on the information generated.

18. Replacing an air-conditioning unit and application of Rules

An owner wanted to replace an air-conditioning unit because it had failed and his tenant had no heating.

The OC’s Erection and Alteration Rule does *not* cover air-conditioning units installed at the back of units and not visible from the common property or other units. However, the EC wanted to dictate the replacement unit and location because allowing the owner to undertake the work speedily without EC oversight could create a precedent.

The EC does *not* have the power to intervene because the Rule specifically excludes the air-conditioning unit in question. The new unit has sustainability benefits, meaning that the EC could not intervene on appearance grounds but only on the grounds of safety, structural considerations and equity of access to common property, easements, facilities or utility services. None of these applied in the circumstances in question.

19. Planning for Gas Decommissioning

OCs managing larger Class A complexes with communal gas-fired hot water systems should soon be reviewing their sinking fund budgets in anticipation of gas decommissioning. The final cutoff in 2045 may seem a long-way in the future, but the network will be progressively shut down from the mid-2030s.



Many uncertainties remain regarding electrification (*structural, logistic, regulatory etc*). Some of these will only be able to be resolved by detailed analysis at an individual building level, and this will take time.

Despite current uncertainties, OCs that start making at least some provision early are less likely to have to deliver unwelcome financial surprises to their owners when the time for implementation comes.

OCN (ACT) is working with the various agencies involved in gas decommissioning to bring increased clarity to the process and options.

20. Past Newsletters

If you are reading a printed copy of this newsletter and are interested in getting an electronic copy of this or any previous newsletters, scanning the QR code opposite will take you to the OCN website where [past newsletters](#) can be found.



If you're reading the electronic version, [this link](#) will take you to an AI-based search facility that provides answers to plain-English questions based on the content of past newsletters.

For example, you could try a query like “*What can you tell me about replacing gas-fired communal hot water systems*”. You'll get an AI-based summary that includes links to the original articles on which the summary is based. By clicking on those links, you'll be presented with the text from a past newsletter on the topic.

As emphasised in an earlier article, always treat AI-based summaries with a grain of salt!

21. In Conclusion!

[OCN \(ACT\)](#) is the “voice of strata” within the ACT, collaborating with like-minded Associations in other States – notably OCN Australia (*based in NSW*).

Whilst tailored support services are limited to OCN (ACT) members, the volunteers who underpin the Association's activities welcome [contact](#) from anyone with an interest in the strata sector. Suggestions for future newsletter articles are also invited.

Robin Eckermann AM - Editor

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